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Forty-seventh session
Agenda items 18 and 104

IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

PROGRAMME BUDGET FOR THE BIENNIUM 1992-1993

Programme budget implications of draft resolutions A/47/L.17 and A/47/L.18

Report of the Fifth Committee

Rapporteur: Mr. Jorge OSELLA (Argentina)

1. At its 31st meeting, on 24 November 1992, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/47/48) on the programme budget implications of draft resolutions A/47/L.17 and A/47/L.18. The related report of the Advisory Committee on Administrative and Budgetary Questions was presented orally by its Chairman.

2. Statements and comments made in the course of the Committee's consideration of this item are reflected in the relevant summary record (A/C.5/47/SR.31).

DECISION OF THE FIFTH COMMITTEE

3. The Fifth Committee decided, without a vote, to inform the General Assembly that, should it adopt draft resolutions A/47/L.17 and A/47/L.18, their implementation would require modification in the programme of work initially programmed under section 6 of the programme budget for the

biennium 1992-1993, as referred to in paragraph 10 of the Secretary-General's statement (A/C.5/47/48). It further decided to inform the General Assembly that, should it adopt draft resolutions A/47/L.17 and A/47/L.18, no additional appropriation would be required under sections 31, 37 and 41 of the programme budget for the biennium 1992-1993.

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GENERAL ASSEMBLY
Forty-seventh session
Agenda item 97 (c)
HUMAN RIGHTS QUESTIONS:
HUMAN RIGHTS SITUATIONS
AND REPORTS OF SPECIAL
RAPPORTEURS AND
REPRESENTATIVES

SECURITY COUNCIL
Forty-seventh year

Letter dated 23 November 1992 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith the statement by the Government of the Federal Republic of Yugoslavia (see annex) in connection with some parts of the second report on the situation of human rights in the territory of the former Yugoslavia (A/47/635-S/24766) prepared by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights.

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 97 (c), and of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

Statement by the Government of the F.R. of Yugoslavia in connection with parts of the Report of Mr. Tadeusz Mazowiecki, Special Rapporteur of the UN Commission on Human Rights

I. The Government of the Federal Republic of Yugoslavia has carefully and with due attention studied the second report of the Special Rapporteur of the UN Commission on Human Rights, Mr. Tadeusz Mazowiecki and would on this occasion like to draw attention to certain inaccuracies and even, in its view, off- handed assessments on the observance of human rights on the territory of FR Yugoslavia. However, before drawing attention to those elements of the report which, in the opinion of the Federal Government, fail to accurately establish the actual state of affairs, the Federal Government would like to make some general remarks which will, we trust, help get an objective picture of the situation concerning human rights and the efforts and measures of the Government aimed at ensuring the effective realization and efficient protection of those rights.

The Federal Government would, first of all, like to remind that as of July 15 this year, when it assumed office, it has taken a number of measures - in conformity with the Constitution of FR Yugoslavia, almost a third of the provisions of which are devoted to the protection of human rights - with a view to promoting those rights and their genuine protection. Fully aware of the fact that no democratic society can be built without observance of the rights of the individual and the full equality of citizens, without any discrimination whatsoever, it has set up a special Ministry for Human and Minority Rights with the aim of ensuring full compliance with the international obligations and standards the country has assumed in this area. A draft law on amnesty has been drawn up for all acts related to the armed conflict , except for, it goes without saying, grave breaches of the Geneva Conventions (war crimes and crimes against humanity) and that law is undergoing the parliamentary procedure. The Government has unequivocally, absolutely and with overwhelming public support condemned and rejected the policy of so called "ethnic cleansing" irrespective of where and against which people it is being pursued. On its territory it has vigorously prevented the attempts of unconscientious individuals or groups to make some citizens, non-Serbs, move under pressure or by force (the case of the village of Hrtkovci). The perpetrators of those acts or those suspected of such acts, sanctioned by positive law, have been brought to justice. Those who left out of fear, and this can by no means be described as a large-scale phenomenon, have been given full guarantees that they would be indemnified and enabled to return to their homes. All this has been done in full cooperation with the authorities of the two federal republics. Over 500,000 refugees, not only Serbs but also about 40,000 Moslems and members of other nations, have been taken in by the FR Yugoslavia without any discrimination whatsoever, and the number of refugees is constantly growing. All these unfortunate people have received equal treatment and their misfortune is additionally exacerbated by the fact that they are precisely the ones hardest hit by the harsh sanctions of the international community imposed on the FR Yugoslavia. Without in any way underestimating the assistance being extended by the international community to the refugees, the Government of the FR Yugoslavia must note with bitterness that the aid extended to the refugees on the territory of the FR Yugoslavia is not commensurate with their needs and the impression is gained that these people are discriminated against, as compared to those who have fled to other parts of the former Yugoslavia. With the coming winter and the burden of the sanctions the FR Yugoslavia and the enormous number of refugees it has taken in are facing insurmountable difficulties which will be hard to overcome without a fairer distribution of the assistance extended by the international community, through humanitarian organizations, to all refugees on the soil of the former SFRY.

The Federal Government would on this occasion also like to remind that from the moment it took office it has been doing everything in its power to put an end to the war on the territory of the former Yugoslavia, especially in Bosnia and Herzegovina. It has provided ample proof of its willingness to cooperate with international factors in finding a peaceful and negotiated solution to the whole complex of issues constituting the "Yugoslav crisis" and it would like to reiterate its high appreciation of the efforts of the international community, especially where Bosnia and Herzegovina is concerned, to resolve the conflicts and all outstanding issues solely through negotiations and agreement between all the parties concerned. Within those efforts, support to all actions of a humanitarian nature which are aimed at the protection of human rights is by no means of less importance. given the ethnic, cultural, historical and emotional and other links of the Serbs, and their general concern for the fate

of their brethren in parts which have remained outside the territory of the FR Yugoslavia, it was not easy for the Federal Government to discontinue assistance to the people and authorities in those regions but it did so; the only aid it is giving is humanitarian. The public of the FR Yugoslavia has accepted that decision as wise and prudent but it cannot accept that the Serbs in those regions are, if not solely, then primarily, held responsible for all the brutalities committed there. Needless to say, those territories are outside the jurisdiction of the FR Yugoslavia but such statements and, regrettably, Mr. Mazowiecki's Report is no exception in that sense, certainly do not contribute to upgrading the protection of human rights. Just as facts must be established objectively, however distressing they may be, so must blame for brutalities be apportioned equitably among all perpetrators. Putting the blame all too easily on any of the parties to the conflict in Bosnia and Herzegovina can only undermine general efforts to end violations of human rights in those territories.

The Federal Government supports the conclusions in Mr. Mazowiecki's second report under points a) - d) and is prepared to help their implementation, just as it is prepared itself to provide, regardless of its limited possibilities, humanitarian relief to all the inhabitants of Bosnia and Herzegovina, irrespective of religion or nationality. To that end, and also with a view to facilitating the delivery of international aid to the people of Bosnia and Herzegovina, Yugoslav Prime Minister Mr. Milan Panic has already earlier offered Yugoslav airports, means of transportation, free passage and all the necessary facilities for the transport of international aid, in particular to Sarajevo. The Federal Government on this occasion reiterates its willingness to that effect.

The Federal Government would like to refer to those sections of Mr. Mazowiecki's Report which deal with the situation in the FR Yugoslavia and, by pointing to the facts and to the concrete measures it has taken in Kosovo and Metohija, in Vojvodina, and in those parts of the country designated as "Sanjak", draw attention to a number of inaccuracies in the report not reflecting the true state of affairs.

II. With regard to the Autonomous Province of Kosovo and Metohija:

First of all, it is a fact that for a long time there has been no direct dialogue between the authorities and the Yugoslav Albanians in this province. In coordination with the authorities of the Republic of Serbia the Federal Government of Yugoslavia has taken steps and initiated a dialogue, not only within the framework of the Geneva Conference, but also in direct contact, - when Prime Minister M. Panic visited Kosovo and Metohija.

The Federal Government hopes that the process embarked upon by talks on the creation of conditions for the normal operation of elementary and secondary schools as well as of the university, will contribute to the building of confidence, the consistent observance of human and minority rights and the improvement of the position of all the inhabitants of Kosovo and Metohija. The basic prerequisite for that is the readiness of the Albanians from Kosovo and Metohija to accept reality in terms of the impossibility of changes of borders and of the state - legal status of the territory of Kosovo and Metohija.

It is not disputable that the Albanians are today unproportionately represented in public services, the administration, the judiciary and health, but it is incorrect to claim, as Mr. Mazowiecki's Report does, that they have been "completely eliminated" from those state services. Thus, of the 284 employed in the provincial state administration bodies, 90 are Albanians. Of the 206 employed in the Kosovo district administrative agencies, 27 are Albanians. The health services of Kosovo and Metohija employ 11,980, of which 8,498 Albanians. 212 Albanians are employed in the mass media. Of the 756 workers in the work communities of the courts, 351 are Albanians. Of the 166 holders of judicial offices, 15 are Albanians, while 26 elected judges have refused to take the oath. In public prosecutor's offices, of the 64 employed, 30 are Albanians.

The Federal Government and the Government of the Republic of Serbia are exerting efforts so as to change the situation, but for that to happen the Albanians themselves must demonstrate readiness to join those services. Namely, in examining the causes underlying this situation one should, inter alia, bear in mind the fact that the withdrawal of Albanians from a number of posts, primarily in the state administration, was resorted to by the Albanian political leadership as a means for attaining their political aim. Hence, one cannot only speak of the elimination of Albanians from public services but equally of their boycott of those services.

In the view of the Federal Government there is no proof for the claim about the planned "erosion of Albanian culture". Today the Kosmet Albanians print and distribute without any hindrance whatsoever some 20 papers and magazines and have daily TV and radio programmes in their language. In 1991 40 books with a circulation of over 3,000,000 copies were published in the Albanian language. During the 1990/1991 school year in Kosovo and Metohija there were 25,000 students of Albanian nationality i.e. 230 students per 10,000 inhabitants (160 in Serbia, 165 in France and 180 in Germany). This situation later changed, for well-known reasons. The Albanians have two theatres. In 1991 Albanian actors had 47 performances in the theatre. Of a total of 124 workers in those

theatres 84 are Albanians. In Kosovo and Metohija there are large and smaller libraries richly stocked with books in the Albanian language, there are many cultural and artistic societies, etc.

The Albanians from Kosovo and Metohija enjoy full freedom of religion. In Kosovo and Metohija there are over 500 mosques and in Pristina there is a religious school (a medresa) in which over 250 Albanians receive their education.

The Albanians have ten registered political parties which are, inter alia, pursuing their political activity also in international relations without any hindrance whatsoever.

III. In respect of the Autonomous Province of Vojvodina:

The impression one has from the report of Mr. Mazowiecki is that the Special Rapporteur puts an equation mark between the situation in Kosovo and Metohija and the one in Vojvodina, which is absolutely not true. First of all, no special or legal measures have ever been undertaken in this province, nor are they in force today, which in itself testifies to the fact that the situation in the two provinces cannot be put into the same basket.

Nobody in Yugoslavia denies the fact that due to the war situation - the armed conflict in Croatia took place in the immediate vicinity of Vojvodina - and due to a large inflow of refugees from Croatia into this province, inter-ethnic relations in some places in Vojvodina were seriously disturbed. Some refugees many of whose closest relatives had been killed in the war and who, as a rule, had lost everything they once had, demonstrated a certain degree of intolerance, sometimes violent, against members of other ethnic groups (primarily Croats), seeking sometimes, even by force, to provide new homes and means of livelihood for themselves. As mentioned above, the authorities responded to such cases of violence; acts of extremists were most sharply condemned, and those who violated the law were arrested and charges were pressed against them. In the report of October 30, this year, submitted by the Federal Government to the Committee for Human Rights, in accordance with the provisions of article 40, item 1b) of the International Covenant on Civil and Political Rights, all the cases and measures taken by the government to put an end to such a situation were covered in detail. On the other hand, wishing to avoid being mobilized during the armed conflict in Croatia, a number of members of ethnic minorities, as well as Serbs, temporarily fled the country. The amnesty law that is being prepared as already noted, should enable the return of these people whose families, after all, remained in the country. Furthermore, it is also true that a number of Croatian families moved to Croatia at the time of the conflict in Croatia or immediately after its termination. However, the statement of the Special Rapporteur "... that 90 000 Croats and Hungarians had fled" does not correspond to the facts.

Furthermore, even the Yugoslav authorities themselves do not have precise data on the exact number of refugees in the FR Yugoslavia. It is estimated that there are about 500,000 - 600,000 refugees and the vast majority of them have found only temporary shelter in certain regions, so that to claim that the "about 150 000 refugees ", who are,according to the estimates of the Special Rapporteur, now in Vojvodina, will remain there permanently, is simply not true. From the context of point 22 of the Report it can be concluded that the "apprehensions of Hungarians, Croats, Slovaks, etc." are founded, since their property will allegedly "be confiscated" in order to accommodate refugees in their homes. In the FR Yugoslavia no one's property has been "confiscated", nor is there any such possibility, since private property is guaranteed by law. In addition, the Government of the FR Yugoslavia is advocating the return of all refugees to their homes, which coincides with the intentions of all the negotiating parties at the Geneva Conference. It is underlined in this statement, that the presence of such a large number of refugees presents a great problem for the Government of the FR Yugoslavia, and that this problem is not only affecting members of national minorities, but also all citizens of the FR Yugoslavia, and in financial terms, even more the families of majority ethnic groups than ethnic minority families.

To neglect all that the Government of the FR Yugoslavia, together with the Government of the Republic of Serbia and the Government of the Republic of Montenegro has done to ease ethnic tensions, and to ignore the fact that a dialogue with the minorities' representatives is being conducted, and in the presence of representatives of the Geneva Conference on Yugoslavia and CSCE missions, and all this with a view to resolving certain real problems, and to conclude that in the province of Vojvodina " ... the overall situation is tense and that it seems(?) that there is a risk(?) of escalation of violence in the winter months" as stated at the end of Point 22 of the Report, testifies to the one-sided drawing of conclusions.

IV. With respect to the region designated as "Sandjak" in the Report:

It should be underlined that Sandjak, unlike the provinces of Kosovo and Metohija and Vojvodina, is merely a geographical and historical and not a state-legal term, consisting of six communes in Serbia and two in Montenegro, inhabited by a mixed population of Serbs, Montenegrins and Moslems, and that a "potential hot-bed of conflict" can be used to describe only those communes which border on Bosnia-Herzegovina (Plevlja, Prijepolje and Priboj). However, bearing in mind the measures undertaken by the federal authorities and the authorities of the two republics, particularly in Pljevlja and in the vicinity of Priboj, such a description - even in the case of the specified communes - is much less dramatic. The truth in fact is quite the opposite, i.e. that thanks to the resolute steps taken by the authorities in those communes, tensions have eased. What the authorities did was to take action against the perpetrators of terrorist acts of violence (planting of explosives, throwing hand grenades into yards, etc.) and to disarm the persons suspected of belonging to disbanded and outlawed paramilitary organizations. Criminal proceedings have been instituted against those persons, they have been apprehended, since the identity of most of the perpetrators of those acts has been discovered. It is also true that a number of reservists of the Army of Yugoslavia, mostly in a state of intoxication, had caused a number of incidents against Moslems but it cannot be concluded from this , as is done in Mr. Mazowiecki's Report, that the "positions of the Army " and the "Serbian authorities" were a potential source of "conflict". On the contrary, the Army of Yugoslavia has taken firm steps against its disorderly members. Likewise the local authorities which are also part of the system of the authorities of the Republic of Serbia, are rightly said in the report, to be acting in the direction of the strengthening of tolerance. In the border-line communes, the proximity of the fighting in Bosnia-Herzegovina does indeed heighten insecurity but not only of the Moslem population but also of the Serb and Montenegrin populations. By way of an example, let us mention that about one hundred Serbs and Montenegrins have moved out of the predominantly Moslem town of Rozaj. Precisely for the same reasons, a number of Moslems from this whole region, have moved to Macedonia, Turkey or Germany. However, claim that their number is as high as 70 000 is further evidence of the off-handed attitude towards quite unverified information. Finally, not only are the references to the destruction of mosques in Pljevlja, Priboj and Prijepolje untrue, but not a single mosque on the territory of the FR Yugoslavia has been demolished or burnt down. To speak in general terms of the danger of "a potential conflict in Sandjak" is simply unwarranted since, for instance, the situation in Tutin, Sjenica or Novi Pazar (for which the Special Rapporteur himself says that an "atmosphere of tolerance reigns") is completely different, i.e. peaceful.

In presenting its comments and objections to the report of Mr. Mazowiecki, the Federal Government is not in any way calling in question the good faith of the Special Rapporteur or the team of eminent experts on his mission, nor the intention of the mission to be impartial in portraying the situation. The Government merely wishes to draw attention to the problems resulting from conclusions based on an incompletely established state of affairs. Imprecision and conclusions drawn on the basis of, superficial impressions, provoke among public opinion in the FR Yugoslavia the feeling that this as well as other international missions are not impartial or rather that their reports are drafted in an off-handed manner, hastily, one-sidedly and without any in-depth study of the actual situation. The Government of the FR Yugoslavia looks upon the mission of Special Rapporteur Mr. Mazowiecki, as upon other missions of this kind, such as those sent by the CSCE, primarily as assistance to the FR Yugoslavia to remove as soon as possible, on the basis of such reports, any shortcomings identified with respect to the implementation of human rights. Consequently, the Yugoslav authorities, at the federal level, as well as at the level of the federal states, are wholeheartedly committed to providing all the necessary facilities to missions of this kind precisely in order that they may establish the real state of affairs with the greatest possible measure of accuracy and precision. And all this because they are deeply convinced that it is in the interest of the state of Yugoslavia, as well as of all its citizens, but also in the general interest of the international community, for human rights' protection to be raised to the highest level so that it might come up to the standards generally accepted in the world as soon as possible. Naturally, it is not trying to evade its international responsibilities should any failures to fulfil accepted international obligations be established. However, imprecision or inaccuracy or conclusions jumped to in haste can only erode the pursuit of that general interest - the real and effective protection of human rights, without any discrimination.

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REQUEST FOR AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE

Report of the Sixth Committee

Rapporteur: Mr. Wael Kamal ABOULMAGD (Egypt)

I. INTRODUCTION

1. The item entitled "Request for an advisory opinion from the International Court of Justice" was included in the agenda of the forty-seventh session of the General Assembly at the request of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, Uruguay and Venezuela.

2. At its 69th plenary meeting, on 23 November 1992, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it a letter dated 13 November 1992 from the representatives of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, Uruguay and Venezuela to the United Nations addressed to the Secretary-General (A/47/249 and Add.1) to which an explanatory memorandum was attached in accordance with rule 20 of the rules of procedure of the General Assembly.

4. The Sixth Committee considered the item at its 38th meeting, on 25 November 1992. The summary record of this meeting is contained in document A/C.6/47/SR.38.

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II. CONSIDERATION OF DRAFT DECISION A/C.6/47/L.18

5. At the 38th meeting, on 25 November, the Chairman introduced a draft decision entitled "Request for an advisory opinion from the International Court of Justice" (A/C.6/47/L.18), proposed by him.

6. At the same meeting, the Committee adopted draft decision A/C.6/47/L.18 without a vote (see para. 7).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Request for an advisory opinion from the International Court of Justice

The General Assembly decides:

(a) To continue its consideration of this item;

(b) To include this item in the provisional agenda of its forty-eighth session.

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REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

PROGRAMME BUDGET FOR THE BIENNIUM 1992-1993

Programme budget implications of the draft resolution recommended by the Sixth Committee in its report (A/47/588, para. 9)

Report of the Fifth Committee

Rapporteur: Mr. Jorge OSELLA (Argentina)

1. At its 32nd meeting, on 25 November 1992, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/47/56) on the programme budget implications of the draft resolution recommended by the Sixth Committee in paragraph 9 of its report (A/47/588). The related report of the Advisory Committee on Administrative and Budgetary Questions was presented orally by its Chairman.

2. Statements and comments made in the course of the Committee's consideration of this item are reflected in the relevant summary record (A/C.5/47/SR.32).

DECISION OF THE FIFTH COMMITTEE

3. The Fifth Committee decided, without a vote, to inform the General Assembly that, should it adopt the draft resolution recommended by the Sixth Committee in paragraph 9 of its report (A/47/588), no additional appropriation would be required under the programme budget for the biennium 1992-1993.

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